



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

JUL 27 2010

EPA Region 5 Records Ctr.



369017

REPLY TO THE ATTENTION OF:

C-14J

PROMPT REPLY NECESSARY

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Mark Richards
Chairman, President and Chief Executive Officer
Appleton Papers Inc.
825 E. Wisconsin Avenue
P.O. Box 359
Appleton, WI 54912

Re: Request for Supplemental Information Pursuant to Section 104(e) of CERCLA for the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site in Allegan and Kalamazoo Counties, Michigan

Dear Mr. Richards:

This letter seeks the cooperation of Appleton Papers Inc. ("APT" or "you") in providing information and documents relating to the contamination of the Allied Paper, Inc./Portage Creek/Kalamazoo River Superfund Site in Allegan and Kalamazoo Counties, Michigan ("Site" or "Kalamazoo River Site"). The enclosed request for information ("Information Request") is issued under Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9604(e)(2), which provides the United States Environmental Protection Agency ("EPA") with broad authority to gather information relating to:

- (A) the identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility;
- (B) the nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility; and
- (C) information relating to the ability of a person to pay for or to perform a cleanup.

As API is already aware, EPA is investigating the release or threat of release of polychlorinated biphenyls ("PCBs") at the Kalamazoo River Site. More particularly, EPA is attempting to determine to what extent API sold, either directly or indirectly through waste paper

brokers, paper broke generated at API paper coating mills to any of the secondary fiber pulp and paper mills located on or near the Kalamazoo River for the period of 1954 to 1971.

On March 18, 2003, EPA sent API a previous Information Request pursuant to Section 104(e) of CERCLA for the Kalamazoo River Site. In your 2003 response, you explained that NCR Corporation ("NCR") acquired Appleton Coated Paper Co. ("ACP"), which was eventually purchased by Lentheric, Inc. and renamed API. Additionally, API asserted that it had no connection to the Site. Recently, however, EPA received a copy of a letter dated May 19, 1965 from ACP to Mr. A.E. Burroughs (see Attachment A). This letter indicates that ACP sent NCR paper broke to the Allied Paper Mill in Kalamazoo, Michigan for repulping.

EPA reminds you that pursuant to Section 104(e) of CERCLA, API is obligated to supplement any response it makes to an Information Request if additional information or documents responsive to the request become known or available after you submit a response to EPA. Accordingly, EPA requests that API revisit its earlier response to the initial Information Request. Additionally, EPA requests that API respond to the supplemental Information Request enclosed with this letter (Attachment B). Instructions on how to respond to the questions are provided in Attachment C.

We encourage you to give this matter your immediate attention and request that you: (1) provide responsive information to EPA's initial Information Request; and (2) provide a complete and truthful response to this supplemental Information Request, within 30 days of your receipt of this letter. While EPA seeks your cooperation in this investigation, compliance with the Information Requests is required by law. In addition, providing false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001. The information you provide may be used by EPA in administrative, civil or criminal proceedings.

Some of the information EPA is requesting may be considered by API to be confidential. Please be aware that you may not withhold the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures outlined in Attachment C, including the requirement for supporting your claim for confidentiality.

If you have information about other parties who may have information which may assist EPA in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted within the time frame noted above.

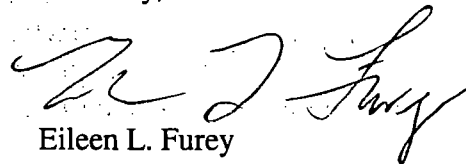
This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.*

Your response to this Information Request should be mailed to:

Leslie A. Kirby-Miles
Associate Regional Counsel
Office of Regional Counsel (C-14J)
U.S. Environmental Protection Agency
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

If you have additional questions about the Kalamazoo River Site or specific questions about the Information Request, please contact Ms. Kirby-Miles at (312) 353-9443. We appreciate and look forward to your prompt response.

Sincerely,



Eileen L. Furey
Section Chief, MMII-Sec.3
Office of Regional Counsel

Enclosures

Attachment B
Information Request

1. **Identify all persons** consulted in the preparation of the answers to this Information Request.
2. Identify all **documents** consulted, examined, or referred to in the preparation of the answers to this Information Request, and provide copies of all such documents.
3. If **you** have reason to believe that there may be persons able to provide a more detailed or complete response to any request included in this Information Request or who may be able to provide additional responsive documents, identify such persons.
4. Identify the acts or omissions of any persons, other than your employees, contractors, or agents, that may have caused the **release** or threat of release of **hazardous substances, pollutants, or contaminants**, and damages resulting therefrom.
5. Identify all persons having knowledge or information about the generation, transportation, treatment, disposal, or other handling of hazardous substances by you, your contractors, or by prior owners and/or operators.
6. In your response to EPA's March 18, 2003 Request for Information, under "Response to Request No. 3," you stated that "the personnel responsible for selling broke specifically recall that all PCB-containing [Carbonless Copy Paper] CCP broke produced at these two facilities [Appleton Plant and Combined Locks mill] was sold to brokers or Lower Fox River recycle mills for valuable consideration." Provide the names and last known addresses of the personnel referred to in your statement.
7. Identify each shipment of CCP broke that was sent from an API owned or operated facility directly or indirectly through a waste paper broker, to any of the secondary fiber pulp and paper mills located on or near the Kalamazoo River in Michigan. For each such shipment, identify: (a) the date (month and year) of the shipment; (b) the amount (in pounds) of CCP broke shipped; and (c) the name and address of the entity to which the shipment was sent.
8. Describe API's current and previous (since 1954) relationship to the following companies: National Cash Register Company, NCR Corporation, Systemedia, Appleton Coated Paper Company, and Appleton Coated LLC.
9. Provide a narrative of API's corporate history to date, beginning with the founding of Appleton Coated Paper Company in 1907. Include a description of the primary functions and responsibilities of each entity.

Attachment C
Instructions for Information Request
Appleton Papers Inc.

Instructions

1. Answer Every Question Completely. A separate response must be made to each of the questions set forth in this Information Request. For each question contained in this letter, if information responsive to this Information Request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Number Each Answer. Precede each answer with the corresponding number of the question and the subpart to which it responds.
3. Provide the Best Information Available. Provide responses to the best of your ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available will be considered non-compliance with this Information Request.
4. Identify Sources of Answer. For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.
5. Continuing Obligation to Provide/Correct Information. If additional information or documents responsive to this Information Request become known or available to you after you respond to this Information Request, EPA hereby requests pursuant to Section 104(e) of CERCLA that you supplement your response.
6. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), and Section 3007(b) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6927(b), and 40 C.F.R. § 2.203(b).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

1. the portions of the information alleged to be entitled to confidential treatment;
2. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);

3. measures taken by you to guard against the undesired disclosure of the information to others;
4. the extent to which the information has been disclosed to others; and the precautions taken in connection therewith;
5. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
6. whether you assert that disclosure of the information would likely result in substantial harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents, is in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by Section 104(e) of CERCLA. If no such claim accompanies the information when it is received by EPA, then it may be made available to the public by EPA without further notice to you.

7. Disclosure to EPA Contractor. Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. § 2.310(h), even if you assert that all or part of it is confidential business information. Please be advised that EPA may disclose all responses to this Information Request to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within fourteen days of receiving this Information Request.

8. Personal Privacy Information. Personnel and medical files, and similar files, the disclosure of which to the general public may constitute an invasion of privacy, should be

segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."

9. Objections to Questions. If you have objections to some or all the questions within the Information Request letter, you are still required to respond to each of the questions.

Definitions

The following definitions shall apply to the following words as they appear in this Information Request.

1. The term "**arrangement**" means every separate contract or other agreement between two or more persons, whether written or oral.
2. The term "**paper broke**" means any paper generated at the paper mill prior to completion of the manufacturing process.
3. The term "**documents**" includes any written, recorded, computer-generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control, or known by you to exist, including originals, all prior drafts, and all non-identical copies.
4. The term "**hazardous substance**" shall have the same definition as that contained in Section 101(14) of CERCLA, and includes any mixtures of such hazardous substances with any other substances, including mixtures of hazardous substances with petroleum products or other nonhazardous substances.
5. The term "**identify**" means, with respect to a natural person, to set forth: (a) the person's full name; (b) present or last known business and home addresses and telephone numbers; (c) present or last known employer (include full name and address) with title, position or business.
6. With respect to a corporation, partnership, or other business entity (including a sole proprietorship), the term "**identify**" means to provide its full name, address, and affiliation with the individual and/or company to whom/which this request is addressed.
7. The term "**material**" or "**materials**" shall mean any and all objects, goods, substances, or matter of any kind, including but not limited to wastes.
8. The term "**person**" shall include any individual, firm, unincorporated association, partnership, corporation, trust, or other entity.

9. The term "**pollutant or contaminant**" shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations; except that the term "pollutant or contaminant" shall not include petroleum.

10. The term "**release**" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

11. The term "**Site**" shall mean the Allied Paper, Inc./ Portage Creek/ Kalamazoo River Superfund Site in Allegan and Kalamazoo Counties, Michigan.

12. The term "**you**" shall mean Appleton Papers Inc.